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Filed : **December 2, 2003**

COMMENTS

Claims 33-41, 43-46 and 74-86 remain pending in the present application, Claims 33, 36, 38, 45 and 74 having been amended. The claims set forth above include marking to show the changes made by way of the present amendment, deletions being in ~~strikeout~~ and additions being underlined.

In response to the Office Action notified July 23, 2008, Applicants respectfully request the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments.

Amendments to the Claims Add No New Matter

Applicants have amended Claims 33, 36, 38, 45 and 74. Support for the amendments to Claim 33 can be found in, for example, Figure 8 of the application originally filed. Support for the amendments to Claims 36 and 38 can be found in, for example, Figures 4 and 8 and related descriptions of the application originally filed. Support for the amendments to Claim 45 can be found in, for example, Figures 3, 6 and 8 and related descriptions of the application originally filed. Support for amendments to Claim 74 can be found in, for example, Figure 8 and related descriptions of the application originally filed. As such, the amendments to the claims add no new matter.

Ridgeway does not Make Claims 33-41, 43-46 and 74-86 Anticipated or Obvious

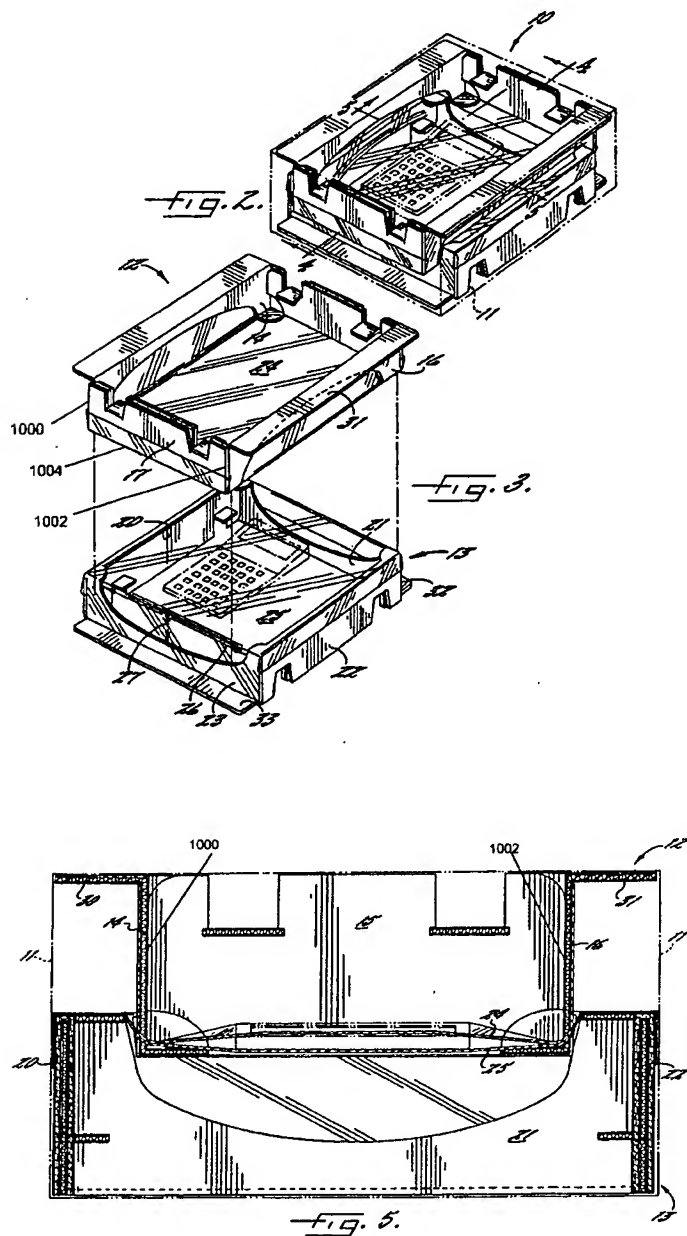
Claims 33-41, 43-46 and 74-86 stand rejected under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as being obvious over US Patent No. 5,388,701 to Ridgeway. Applicants respectfully traverse the present rejection. However, in order to expedite prosecution of the present application, Applicants have amended the claims as set forth above. Applicants expressly reserve the right to further prosecute the original versions of the claims through continuation practice.

Ridgeway

Ridgeway teaches a suspension package having two suspension frames 12 and 13. The frames 12 and 13 have flexible plastic films 24 and 25, respectively. The frame 12 has four side panels 14, 15, 16 and 17. Each of two opposite side panels 14 and 16 has an arch. The frame 13 has four side panels 20, 21, 22 and 23. Each of two opposite side panels 21 and 23 has an

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arch. When the frames 12 and 13 are contained in a box, the arched side panels 14 and 16 of the frame 12 are positioned perpendicularly to the arched side panels 21 and 23 of the frame 13. For the Examiner's convenience, Figures 2, 3 and 5 are reproduced below, in which reference numbers are further added.



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The frames 12 and 13 of Ridgeway, however, are sized such that a distance between the side panels 20 and 22 is much greater than a length of side panel 15 when assembled. Thus, the side panels 20 and 22 located beyond side edges 1000 and 1002 of the side panel 15. *See* Figure 5 below.

Further, in the frame 12 and 13 of Ridgeway, open sides are provided between the side panels 15 and 17 and between the side panels 20 and 22. However, any one of the side panels 15, 17, 20 and 22 has no tapered portion between the free edge, for example, 1004 and the side edges, for example 1000 and 1004.

In the frame 12 and 13, each of the side panels 15, 17, 20 and 22 appears to have two or more walls. However, any one of the side panels has no wall inclined with respect to the other walls of each of the side panels.

Claim 33

In contrast with Ridgeway, Claim 33 now recites, among other recitation, “wherein the first wall structure comprises two side edges generally perpendicular to the first free edge, wherein the second wall structure comprises two side edges generally perpendicular to the second free edge, wherein the third wall structure comprises two side edges generally perpendicular to the third free edge, wherein the first and second frames are sized such that a distance between the side edges of the third wall structure is substantially same with that between one of the side edges of the first wall structure and one of the side edges of the second wall structure when viewed in a direction perpendicular to the third wall structure in nesting engagement.”

Applicants also respectfully direct the Examiner to Figure 8. In the non-limiting embodiment of Figure 8 in the present Application, a distance between side edges 500 and 502 of the peripherally extending structure 58’ is substantially same with that between side edge 600 of the peripherally extending structure 58 and side edge 700 of the peripherally extending structure 60. For the Examiner’s convenience, Figure 8 is reproduced below with additional reference numbers.



As such, Ridgeway fails to teach or suggest such features among other features of Claim 33. Therefore, Ridgeway does not teach or suggest all the features of Claim 33, and its dependent Claims 34, 35, 37, 43, 44 and 46. There is no additional reference or non-reference prior art to remedy the deficiencies of Ridgeway. Further, there is no explanation as to why the differences between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art. Therefore, no *prima facie* case of anticipation or obviousness has been established. Applicants respectfully request the withdrawal of the rejection to Claim 33 and its dependent Claims 34, 35, 37, 43, 44 and 46.

Claims 36 and 38

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Therefore, no *prima facie* case of anticipation or obviousness has been established. Applicants respectfully request the withdrawal of the rejection to Claim 45.

Claim 74

In contrast with Ridgeway, Claim 74 recites, among other recitation, “a first retention sleeve surrounding the first frame member and comprising a first retention portion which extends between the first and second free edges,” and “a second retention sleeve surrounding the second frame member and comprising a second retention portion which extends between the third and fourth free edges.”

Applicants also respectfully direct the Examiner to Figures 4 and 6. In the non-limiting embodiment of Figures 4 and 6 in the present Application, retention sleeves 14 receive frame members 12 and 12', respectively. See Figures 4 and 6 reproduced above.

In Ridgeway, however, no sleeve is provided as a retention member. See Figures 2-5 of Ridgeway. As such, Ridgeway fails to teach or suggest such features among other features of Claim 74. Therefore, Ridgeway does not teach or suggest all the features of Claim 74 and its dependent Claims 75-86. There is no additional reference or non-reference prior art to remedy the deficiencies of Ridgeway. Further, there is no explanation as to why the differences between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art. Therefore, no *prima facie* case of anticipation or obviousness has been established. Applicants respectfully request the withdrawal of the rejection to Claim 74 and its dependent Claims 75-86.

Claims 33 Are Patentable over Smith

The Examiner maintained the rejection to Claims 33-35, 37, 43, 44 and 46 under 35 U.S.C. § 102(b or e) or 35 U.S.C. § 103(a) over U.S. Patent No. 6,311,843 to Smith. Applicants respectfully traverse the present rejection and submit that Smith is in fact not prior art under 35 U.S.C. §§ 102 (b or e) nor 103(a) with respect to pending Claims 33-35, 37, 43, 44 and 46. However, in order to expedite the prosecution, Applicants have amended Claim 33 as set forth above. Applicants expressly reserve the right to further prosecute the original versions of the claims through continuation practice.

As discussed above, Claim 33 recites, among other recitation, “wherein the first wall structure comprises two side edges generally perpendicular to the first free edge, wherein

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the second wall structure comprises two side edges generally perpendicular to the second free edge, wherein the third wall structure comprises two side edges generally perpendicular to the third free edge, wherein the first and second frames are sized such that a distance between the side edges of the third wall structure is substantially same with that between one of the side edges of the first wall structure and one of the side edges of the second wall structure when viewed in a direction perpendicular to the third wall structure in nesting engagement.”

In contrast, Smith discloses only the configuration in Figures 33-35 that a distance between side edges of a panel 642 or 644 is larger than a distance between side panels 622 and 624. As such, Smith fails to teach or suggest such features among other features of Claim 33. Therefore, Smith does not teach or suggest all the features of Claim 33, and its dependent Claims 34, 35, 37, 43, 44 and 46. There is no additional reference or non-reference prior art to remedy the deficiencies of Smith. Further, there is no explanation as to why the differences between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art. Therefore, no *prima facie* case of anticipation or obviousness has been established. Applicants respectfully request the withdrawal of the rejection to Claim 33 and its dependent Claims 34, 35, 37, 43, 44 and 46.

Smith Does Not Qualify as a Prior Art for Rejecting Claim 74

The Examiner maintained the rejection to Claims 74-86 under 35 U.S.C. § 102(b or e) or 35 U.S.C. § 103(a) over Smith. Applicants respectfully traverse the present rejection and submit that Smith is in fact not prior art under 35 U.S.C. §§ 102 (b or e) nor 103(a) with respect to pending Claims 74-86.

Firstly, in paragraph 4 in page 2 of the Office Action, it is stated that the parent applications identified by applicants do not appear to support the embodiments that are the subject of the noted rejections. However, both parent applications, U.S. Patent Application No. 09/690,790, filed October 17, 2000, now Patent No. 6,675,973 B1 (the “parent nonprovisional application”) which claims priority to U.S. Provisional Patent Application No. 60/227,724, titled SUSPENSION PACKAGING ASSEMBLY, filed July 31, 2000 (the “parent provisional application”) disclose embodiments supporting Claims 74-86.

Claims 74-86, are supported by the present application, for example, Figures 1-8

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and related descriptions of pages 9-15 of the application originally filed. These figures and descriptions can be found in the parent applications, for example, Figures 1-8 and pages 9-15 of the parent nonprovisional application, and Figures 1-8 and pages 9-15 of the parent provisional application.

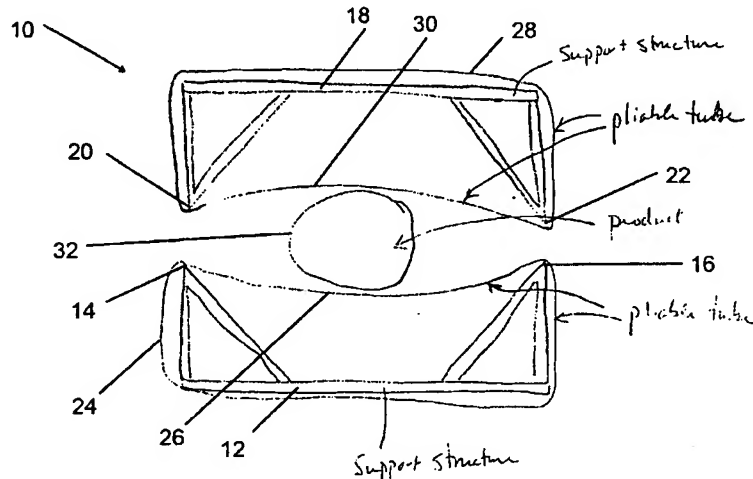
As such, Claims 74-86 are supported by the parent applications filed prior to the publication date of Smith. Therefore, Smith does not qualify as prior art under 35 U.S.C. § 102(b).

Secondly, in reply to the remaining statements in the Office Action regarding the copy of a letter attached to the signed declaration, Applicants replace the submitted copy of the letter from William H. Shreve of Knobbe Martens Olson & Bear LLP dated May 28, 1999 with a new copy of the letter including fewer redacted portions than the previously submitted copy, as well as a supplemental declaration from the inventors of the present Application.

In particular, Applicants have un-redacted nearly all of the text of the original letter to Stanley Schwartz. Further, Applicants would like to point out that the un-redacted portion of the letter now indicates that a copy of a patent is enclosed as well as figures illustrating the subject of the search. Applicants also wish to point out that pages 3-8 include minor unredacted portions to show that these pages are merely a copy of a patent and thus have no relevance to the present rejection.

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Further, Applicants respectfully submit that the drawing of Figure 2 of the unredacted letter accompanying the supplemental declaration show all of the elements recited in Claim 74. For the Examiner's convenience, the drawings are reproduced below with additional reference numbers.



In the non-limiting embodiment of the drawings reproduced above, a packaging assembly 10 is shown. The packaging assembly 10 has a first frame member 12 having first and second free edges 14 and 16, and a second frame member 18 having third and fourth free edges 20 and 22. A first retention sleeve 24 surrounds the first frame member 12 and includes a first retention portion 26 which extends between the first and second free edges 14 and 16. A second retention sleeve 28 surrounds the second frame member 18 and includes a second retention portion 30 which extends between the third and fourth free edges 20 and 22. The first and second frame members 12 and 18 are assembled such that an article 32 is located between the first retention portion 26 and the second retention portion 30.

Applicants also wish to point out that the supplemental declaration submitted herewith also includes an additional explanation of the embodiment of Figure 2 of the May 28, 1999 letter and the embodiment of Figure 8 of the present Application. As set forth in the Supplemental Declaration, the drawing of Figure 2 of the May 28 letter is shown in a state where one of the frame members is rotated 90 degrees (about the vertical axis) from the correct position during use. Further, the Declarants clarify that the prototype that they created before October 1, 1999 included all of the features of Figure 8 of the present Application. Applicants

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thus submit that Figure 2 of the May 28, 1999 letter sufficiently corroborates the Declarants' statements that they created a prototype including all of the features of Figure 8 of the present Application.

As such, Applicants submit that they reduced to practice an embodiment of Claim 74 prior to the effective date of the Smith reference and thus Smith does not qualify as a prior art under 35 U.S.C. § 102(e).

Because Smith does not qualify as a prior art under 35 U.S.C. § 102, it also cannot qualify as prior art under 35 U.S.C. § 103(a). Accordingly, Applicants submit that Claims 74-86 are currently in condition for allowance.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicants' attorney in order to resolve such issue promptly.

Respectfully submitted,

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